AMENDED IN ASSEMBLY MARCH 17, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 1972

Introduced by Assembly Member Carter

February 17, 2010

An act to amend Section 148 of the Penal Code, relating to ~~crimes~~ *resisting lawful authority*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1972, as amended, Carter. Crimes: offenses against public justice.

Existing law ~~requires~~ *provides* that every person who willfully resists, delays, or obstructs any public officer, peace officer, or emergency medical technician in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, *shall* be punished by a fine not exceeding $1,000, or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.

This bill would add school security officers, as defined, to the list of persons that it is a crime to willfully resist, delay, or obstruct in the discharge or attempted discharge of any duty of his or her office or employment. The bill would also make conforming and technical changes. Because this bill would expand the scope of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to encourage school districts to inform students and their parents of the inclusion of school security officers in Section 148 of the Penal Code.

~~SECTION 1.~~

SEC. 2. Section 148 of the Penal Code is amended to read:

148. (a) (1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, school security officer, as defined in Section 38001.5 of the Education Code, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempted discharge of any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(2) Except as provided by subdivision (d) of Section 653t, every person who knowingly and maliciously interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over a public safety radio frequency shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(b) Every person who, during the commission of any offense described in subdivision (a), removes or takes any weapon, other than a firearm, from the person of, or immediate presence of, a public officer or peace officer shall be punished by imprisonment in a county jail not to exceed one year or in the state prison.

(c) Every person who, during the commission of any offense described in subdivision (a), removes or takes a firearm from the person of, or immediate presence of, a public officer or peace officer shall be punished by imprisonment in the state prison.

(d) Except as provided in subdivision (c) and notwithstanding subdivision (a) of Section 489, every person who removes or takes without intent to permanently deprive, or who attempts to remove or take a firearm from the person of, or immediate presence of, a

public officer or peace officer, while the officer is engaged in the performance of his or her lawful duties, shall be punished by imprisonment in a county jail not to exceed one year or in the state prison.

In order to prove a violation of this subdivision, the prosecution shall establish that the defendant had the specific intent to remove or take the firearm by demonstrating that any of the following direct, but ineffectual, acts occurred:

(1) The officer's holster strap was unfastened by the defendant.

(2) The firearm was partially removed from the officer's holster by the defendant.

(3) The firearm safety was released by the defendant.

(4) An independent witness corroborates that the defendant stated that he or she intended to remove the firearm and the defendant actually touched the firearm.

(5) An independent witness corroborates that the defendant actually had his or her hand on the firearm and tried to take the firearm away from the officer who was holding it.

(6) The defendant's fingerprint was found on the firearm or holster.

(7) Physical evidence authenticated by a scientifically verifiable procedure established that the defendant touched the firearm.

(8) In the course of any struggle, the officer's firearm fell and the defendant attempted to pick it up.

(e) A person shall not be convicted of a violation of subdivision (a) in addition to a conviction of a violation of subdivision (b), (c), or (d) when the resistance, delay, or obstruction, and the removal or taking of the weapon or firearm or attempt thereof, was committed against the same public officer, peace officer, school security officer, or emergency medical technician. A person may be convicted of multiple violations of this section if more than one public officer, peace officer, school security officer, or emergency medical technician are victims.

(f) This section shall not apply if the public officer, peace officer, school security officer, or emergency medical technician is disarmed while engaged in a criminal act.

~~SEC. 2.~~

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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